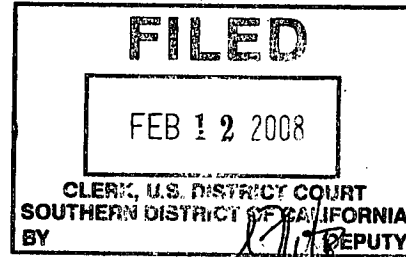


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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) Criminal Case No. 08CR0086-LAB
11)
12 Plaintiff,)
13 v.) **STIPULATION OF FACT AND JOINT**
14 ALEJANDRO PEREZ,) **MOTION FOR RELEASE OF**
15 Defendant.) **MATERIAL WITNESS(ES) AND**
) **ORDER THEREON**

16 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
17 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Fred
18 Sheppard, Assistant United States Attorney, and defendant *, by and through and with the advice and
19 consent of defense counsel, Lynn Ball, that:

- 20 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
21 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
22 intelligently and voluntarily entered into it. Defendant agrees further to plead guilty to count two
23 of the indictment charging defendant with a non-mandatory minimum count of Bringing in Aliens
24 Without Presentation and Aiding and Abetting, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii).
- 25 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
26 provide the signed, original plea agreement to the Government.
- 27 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
28 before **February 13, 2008.**
4. The material witnesses, Jin Bin Zheng, Xu Xian Dong, Zeng Biao Wang, Qiang Shou

1 Zheng, Hua He, Wen Zhong Liu, Chun Shan Jiang, Li Jian Jiang, Wei Kua Zheng, Feng Yang, Wei
2 Wang, L.C. (Minor), Fei Jiang, Yi Di Xu, Jin Hua Lu, An Ping Shen and Qu Chenyun, in this case:

- 3 a. Are aliens with no lawful right to enter or remain in the United States;
4 b. Entered or attempted to enter the United States illegally on or about December
5 28, 2007;
6 c. Were found in a vehicle driven by Defendant at the Calexico West Port of
7 Entry, where Defendant failed to present them for inspection and Defendant knew or acted in
8 reckless disregard of the fact that they were aliens with no lawful right to enter or remain in the
9 United States;
10 d. Were paying between and unknown amount and \$70,000 to unknown
11 individuals to be brought into the United States illegally and/or transported illegally to their
12 destination therein; and,
13 e. May be released and remanded immediately to the Department of Homeland
14 Security for return to their country of origin.

15 5. After the material witnesses are ordered released by the Court pursuant to this
16 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
17 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
18 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

- 19 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
20 substantive evidence;
21 b. The United States may elicit hearsay testimony from arresting agents
22 regarding any statements made by the material witness(es) provided in discovery, and such testimony
23 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
24 of (an) unavailable witness(es); and,
25 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
26 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
27 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant

1 waives the right to confront and cross-examine the material witness(es) in this case.

2 6. By signing this stipulation and joint motion, defendant certifies that defendant has
3 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
4 further that defendant has discussed the terms of this stipulation and joint motion with defense
5 counsel and fully understands its meaning and effect.

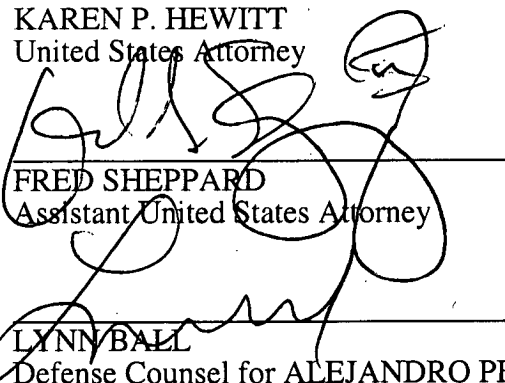
6 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
7 immediate release and remand of the above-named material witness(es) to the Department of
8 Homeland Security for return to their country of origin.

9 It is STIPULATED AND AGREED this date.

10 Respectfully submitted,

11 KAREN P. HEWITT
United States Attorney

12
13 Dated: 2/12/08

14 
FRED SHEPPARD
Assistant United States Attorney

15
16 Dated: 2/12/08

17 
LYNN BALL
Defense Counsel for ALEJANDRO PEREZ

18 Dated: 2/12/08

19 
ALEJANDRO PEREZ
Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated:

2/12/08


United States Magistrate Judge